

## CHAPTER 142.

[S. B. 153.]

## PROBATE LAW.

AN ACT relating to probate law and procedure, including the making and probating of wills, administration of estates of deceased persons; appointment of guardians of the persons and estates of minors, insane and mentally incompetent persons and administering their estates and providing penalties for violations of certain provisions of this act and amending sections 1381, 1420, 1473, 1477 and 1568, of Remington's Compiled Statutes, and amending Chapter III, Title X of Remington's Compiled Statutes, by adding thereto a new section, to be known as section 1585-a.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. That section 1381 of Remington's Compiled Statutes be amended to read as follows:

Amends Rem.  
Comp. Stat.  
§ 1381;  
Pierce's Code  
§ 10050.

Section 1381. If any witness be prevented by sickness from attending at the time any will is produced for probate, or reside out of the state or more than thirty miles from the place where the will is to be proven, such court may issue a commission annexed to such will, and directed to any judge, justice of the peace, notary public, or other person authorized to administer an oath, empowering him to take and certify the attestation of such witness.

Absent witness to wills.

SEC. 2. That section 1473 of Remington's Compiled Statutes be amended to read as follows:

Amends Rem.  
Comp. Stat.  
§ 1473;  
Pierce's Code  
§ 9893.

Section 1473. If it shall be made to appear to the satisfaction of the court that no homestead has been claimed in the manner provided by law, either prior or subsequent to the death of the person whose estate is being administered, then the court after hearing and upon being satisfied that the funeral expenses, expenses of last sickness and of administration have been paid or provided for, and upon petition for that purpose, shall award and set off to the surviving spouse, if any, property of the estate,

Homestead, set apart.

Value.

either community or separate, not exceeding the value of three thousand dollars (\$3,000.00), exclusive of any mortgage or mechanic's, laborer's or material men's or vendor's liens upon the property so set off, which property so set off shall include the home and household goods, if any, and such award shall be made by an order or judgment of the court and shall vest the absolute title, and thereafter there shall be no further administration upon such portion of the estate so set off, but the remainder of the estate shall be settled as other estates. Notice of such hearing shall be given by posting a notice in three public places in the county in which the hearing is to be held. Said notice may be posted by the clerk of the superior court of the county in which the hearing is to be held, or may be posted by any person qualified to serve a summons in a civil action. Said notices shall be posted at least ten days prior to the date fixed for the hearing. If there be any minor child or incompetent heir of the decedent the court shall appoint a guardian *ad litem* for such minor child or incompetent heir, who shall appear at the hearing and represent the interest of such minor child or incompetent heir. The order or judgment of the court making the award or awards provided for in this section shall be conclusive and final, except on appeal and except for fraud. The awards in this section provided shall be in lieu of all homestead provisions of the law and of exemptions.

Notice.

Minor or  
incompetent  
heir.

Amends Rem.  
Comp. Stat.  
§ 1477;  
Pierce's Code  
§ 9828.

Notice to  
creditors.

SEC. 3. That section 1477 of Remington's Compiled Statutes be amended to read as follows:

Section 1477. Every executor or administrator shall, immediately after his appointment, cause to be published in some newspaper printed in the county, if there be one, if not, then in such newspaper as may be designated by the court, a notice that he has been appointed and has qualified as such executor or

administrator, and therewith a notice to the creditors of the deceased, requiring all persons having claims against the deceased to serve the same on the executor or administrator or his attorney of record, and file with the clerk of the court, together with proof of such service, within six months after the date of the first publication of such notice. Such notice shall be published once in each week for three successive weeks. If a claim be not filed within the time aforesaid, it shall be barred. Proof by affidavit of the publisher of the publication of such notice shall be filed with the court: *Provided, however*, in cases where all the property is awarded to the widow, husband or children as in this act provided, the notice to creditors herein provided for may be omitted.

Published.

SEC. 4. That section 1568 of Remington's Compiled Statutes be amended to read as follows:

Amends Rem. Comp. Stat. § 1568; Pierce's Code § 9900.

Section 1568. If the petition be with reference to the appointment of any guardian mentioned in the preceding section, except guardians for the property of non-residents of the state, or where the applicant for appointment is the person having the custody care and control of such minor, insane or mentally incompetent person, or is the person with whom such minor, insane or mentally incompetent person resides, then the notice of hearing provided for in the preceding section shall be personally served upon the person having the custody, care and control of such minor, insane or mentally incompetent person, or the person with whom such minor, insane or mentally incompetent person resides, and if such minor be over the age of fourteen years, then such notice shall also be personally served upon such minor. If such minor, insane or mentally incompetent person be in the care, custody or control of any officer or institution, then such notice shall be served upon such officer or head of such institution. The notice herein provided for shall be served at least ten days prior

Petition for appointment of guardian.

Service of notice of hearing.

to the time set for such hearing, and proof, as in civil actions provided, of such service shall be made and filed in the proceedings.

SEC. 5. That Chapter III, Title X of Remington's Compiled Statutes be amended by adding thereto a new section to be known and designated as section 1585-a, to read as follows:

Section 1585-a. If any person who is bound by contract in writing to convey any real property shall become insane or mentally incompetent before making the conveyance, the court having jurisdiction of the guardianship of such property may, upon application of the guardian of such insane or incompetent person, or upon application of the person claiming to be entitled to the conveyance, make an order authorizing and directing the guardian to convey such property to the person entitled thereto. The application and the proceedings, shall, as nearly as may be, be the same as provided for the specific performance of decedent's contracts as set forth in sections 1558 to 1564, both inclusive, of Remington's Compiled Statutes.

Insane or incompetent person, conveyance of real estate.

See Rem. Comp. Stat. § 1558 to 1564; Pierce's Code § 10005 to 10011.

Passed the Senate March 8, 1923.

Passed the House March 6, 1923.

Approved by the Governor March 16, 1923.